

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1779 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MUKESH C DESAI

Versus

GUJARAT INSECTICIDES LTD.

Appearance:

MR JOY MATHEW for the Petitioner.
SINGHI & BUCH ASSO. for Respondent No. 1-3
DELETED for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/04/2004

ORAL JUDGEMENT

The petitioner was an employee of respondent
No.1. His services were terminated by the
opponent-Company, which is the subject matter before the

Labour Court.

Since the opponent-Management refused to allow the applicant to enter the Union office, the petitioner filed Civil Suit No.84 of 1993 before the Court of Joint Civil Judge (Junior Division), Ankleshwar. In the said suit, the petitioner filed Exhibit 5, praying for an injunction, restraining the present opponent No.1 from preventing him from entering the Union office. The trial court, after hearing both the sides, vide order dated 13.4.1993, allowed the said application of the petitioner, with costs.

Aggrieved by the order of the trial court, opponent No.1 herein filed an appeal, being Miscellaneous Civil Appeal No.20 of 1993, before the District Court at Bharuch, which was withdrawn by the said opponent on 17.10.1996.

It is the say of the petitioner that despite the order of the trial court becoming final, the opponents did not allow the petitioner to enter the company premises and, therefore, aggrieved thereby, the petitioner filed an application under Order 39 Rule 2 of the CPC before the Civil Judge (Junior Division), Ankleshwar, for the alleged breach of injunction. The Civil Judge, after hearing all the parties, vide order dated 24.4.1998, directed opponents 2 to 4 to undergo one month's civil imprisonment.

Aggrieved by the aforesaid order dated 24.4.1998, opponent No.1 filed an appeal, being Miscellaneous Civil Appeal No.59 of 1998. The learned Assistant Judge, Bharuch allowed the said appeal and set aside the order dated 24.4.1998 passed by the Civil Judge (Junior Division), Ankleshwar. The appellate Judge, while allowing the appeal, observed as under in paragraph 14 :-

"

But plaintiff has filed the suit against only Chief Manager, Personal and H.R.D. and injunction also prayed against the Chief Manager, Personal and H.R.D. On seeing Exh.31, plaintiff has prayed the relief under Order 39 Rule 2-A of the C.P.C. against (1) Gujarat Insecticides Ltd., (2) Shri V.K. Raval, Director (Operation) (3) Shri L.K. Bhambhani and (4) Shri B.D. Vaidhya (Security Officer). All the four persons are not

parties in the suit, no injunction granted against the said four persons. L.K. Bhambhani has led his evidence and stated that he has joined in the company in 1995. For this argument, learned Advocate Shri B.K. Jaria for the respondent unable to reply.

... .."

In my view, there is no substance in this CRA, especially when the appellate court has clearly found that all the four persons, arraigned in the contempt application, were not parties in the suit, and no injunction was granted against the said four persons. Considering the facts of the case, it cannot be said that any jurisdictional error is committed by the appellate court requiring interference by this Court in a revision filed under Section 115 of the Code of Civil Procedure and, therefore, the present revision application requires to be dismissed and it is accordingly dismissed. Rule is discharged. No costs.

12th April, 2004 (P.B. Majmudar, J.)

(apj)